IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.14397 of 1993
Date of decision: 01.09.2016

Paramjit Singh and another

... Petitioners

Vs.

Financial Commission, Taxation, Punjab and others

... Respondents

CORAM: HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present: Mr. P.N. Aggarwal, Advocate
for the petitioners.

Ms. Monica Chhiber Sharma, DAG, Punjab.

Mr. Kuldip Sanwal, Advocate
for respondents No.5 to 11, 14 & 15.

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RAMESHWAR SINGH MALIK, J. (ORAL)

Learned counsel for the petitioners, at the very outset, submits that present case is squarely covered by the Full Bench judgment of this Court in **Sardara Singh and others Vs. The Financial Commissioner and others, 2008 (2) RCR (Civil) 744** and also the judgment passed by this Court in **CWP No.7016 of 1995 (Kuldip Singh (through LRs) and others Vs. State of Punjab and others, decided on 08.08.2013.**

When confronted with the abovesaid abovesaid fact situation, learned counsel for the respondents could not controvert the statement made by learned counsel for the petitioners and rightly so, it being a matter of record.

The ratio of law laid down by the Hon'ble Full Bench in para 42 of its judgment in **Sardara Singh**'s case (supra), which can be gainfully followed in the present case, reads as under: -

> *"Resultantly, where the surplus area has not been finally determined, and the matter is pending in appeals or revisions before the Revenue Courts or before this Court under Article 226 of the Constitution, or before the Supreme Court of India, death of the landowner would cause affectation of surplus area which would be required to be redetermined in the hands of the heirs of the deceased landowner. Such an interpretation would harmoniously construct the provisions of Section 11(5) and 11(7) and also give a proper interpretation to both the views expressed in Ajit Kaur's case. However, we are unable to uphold the judgments of this Court in Jasbir Kaur's case because Ajit Kaur's case was not at all considered by the Hon'ble Division Bench. As regards Manjit Kaur's case, even though Ajit Kaur's case was considered, the majority view had been entirely overlooked."*

No other argument was raised.

In view of the undisputed fact situation obtaining in the present case, instant writ petition is allowed and the impugned orders (Annexures P-4, P-7 and P-13) passed by the respondent revenue authorities are hereby set aside. However, it is left open to the respondent authorities to re-determine the surplus area case in the hands of the petitioners and other legal representatives of deceased land owner Smt. Harnam Kaur and Smt. Balwant Kaur, strictly in accordance with law. It goes without saying that if the respondent authorities would start de novo proceedings in this regard, that will have to be started only under the Punjab Land Reforms Act, 1972.

With the abovesaid observations made, present writ petition stands allowed, however, with no order as to costs.

[RAMESHWAR SINGH MALIK]
JUDGE

01.09.2016
vishnu

Whether speaking/reasoned Yes/No

Whether reportable Yes/No